

SENATE JOURNAL

SEVENTY-SECOND LEGISLATURE — FOURTH CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIRST DAY

(Tuesday, November 10, 1992)

In obedience to the Proclamation of The Honorable Ann W. Richards, Governor of the State of Texas, the Senate met in the Senate Chamber of the state capital at Austin, Texas, on the 10th day of November, 1992, at 12:00 noon and was called to order by The Honorable Bob Bullock, Lieutenant Governor and President of the Senate.

The President directed the Secretary of the Senate to call the roll of the Senate.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brooks, Brown, Carriker, Dickson, Ellis, Glasgow, Green, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Johnson, Leedom, Lucio, Lyon, Moncrief, Montford, Ratliff, Rosson, Sibley, Sims, Tejeda, Truan, Turner, Whitmire, Zaffirini.

Absent-excused: Krier, Parker.

The President announced a quorum of the Senate present.

The Reverend David C. Penticuff, St. Peter's Episcopal Church, Lago Vista, offered the invocation as follows:

Almighty God, who hast given us this great State of Texas for our heritage, may we always prove ourselves a people mindful of this favor and glad to do Thy will. Endue with the spirit of wisdom those to whom in Thy name we entrust the authority of government. We beseech Thee to guide and bless this special session of the 72nd Legislature of the State of Texas. In particular, we ask Thy blessing upon the Lieutenant Governor and the Senate of Texas here assembled, that they may ordain for our governance only such things as please Thee, for the glory of Thy name and the welfare of Thy people, all of which we ask in the name of Jesus Christ our Lord. Amen.

LEAVES OF ABSENCE

Senator Parker was granted leave of absence for today on account of important business on motion of Senator Brooks.

Senator Krier was granted leave of absence for today on account of important business on motion of Senator Brooks.

PROCLAMATION FROM THE GOVERNOR

The following Proclamation from the Governor was read and was filed with the Secretary of the Senate:

P R O C L A M A T I O N
BY THE
GOVERNOR OF THE STATE OF TEXAS
41-2532

TO ALL TO WHOM THESE PRESENTS SHALL COME:

Under the provisions of Article IV, Section 8 of the Texas Constitution, I, Ann W. Richards, Governor of Texas, do hereby call a special session of the 72nd Legislature, to be convened in the City of Austin commencing at 12:00 noon, Tuesday, the 10th day of November, 1992, for the following purpose:

to consider legislation to establish and make suitable provision for the support and maintenance of an efficient system of public free schools.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 4th day of November, 1992.

/s/Ann W. Richards
Governor of Texas

ATTEST:

/s/John Hannah, Jr.
Secretary of State

SENATE RESOLUTION 1
(Caucus Report)

Senator Brooks offered the following resolution:

Honorable Bob Bullock
Lieutenant Governor
Senate of Texas
Austin, Texas

Sir:

At a caucus held in the office of the Senate attended by 27 Members of the Senate, the following recommendations were made, to wit:

BE IT RESOLVED by the Senate, That:

The following officers were elected to serve for the 72nd Legislature, 4th Called Session, at the will of the Senate:

Secretary of the Senate - Betty King
Calendar Clerk - Pat Rodgers
Doorkeeper - James Morris
Enrolling Clerk - Patsy Spaw
Journal Clerk - Dianne Arrington
Sergeant-at-Arms - Carleton Turner
Status Clerk - Kay Hughes

All officers and employees appointed by this caucus shall hold their office of employment for the duration of the 72nd Legislature, 4th Called Session.

It is recommended that the Lieutenant Governor and the Secretary of the Senate each be permitted to name secretarial staff and assistants at salaries designated by the Lieutenant Governor and the Administration Committee respectively. The Parliamentarian, Robert Johnson, is to be named by the Lieutenant Governor.

It is further recommended that the Administration Committee appoint a sufficient number of custodians, messengers, elevator operators, porters, and other employees as may be necessary. The Lieutenant Governor is authorized to designate any member of the Senate or Senate staff to attend official meetings of national governmental organizations during the 72nd Legislature, 4th Called Session, while in session. Actual and necessary expenses are hereby authorized as reimbursement for such trips. The Lieutenant Governor shall have the authority to designate a member of the Senate to represent the Senate at ceremonies and ceremonial functions. Necessary expenses for performance of these duties and for necessary staff are hereby authorized to be paid pursuant to a budget approved by the Administration Committee.

It is further recommended that each Senator shall be permitted a maximum payroll of \$20,000 per month for secretarial and other office staff and for intrastate travel expenses for staff employees. Any unexpended portion of this amount may be carried forward from month to month until the end of the fiscal year. In order to accrue vacation leave, compensatory/overtime leave, or sick leave, employees of members must file monthly time sheets with the Senate Personnel Office by the 10th of the month following the month in which work was performed. Employees of members and committees must use compensatory/overtime accrued in a given month by the end of the same month of the following year. Compensatory/overtime accrued prior to January 1, 1992, will not be carried forward after January 1, 1993. No compensatory/overtime will be paid at either the end of the fiscal year or at an employee's termination.

Beginning with the 72nd Legislature, 4th Called Session, the Secretary of the Senate is authorized to order reimbursement for legislative expenses consistent with this resolution and the establishment by the Ethics Commission of per diem rates.

The Lieutenant Governor, Senators, and the Secretary of the Senate are hereby fully authorized and empowered to use any assistant Sergeant-at-Arms and all other necessary employees for any and all services needed in and about the Senate.

It is further recommended that the Lieutenant Governor, each Senator, and the Secretary of the Senate be permitted to subscribe for newspapers as necessary to be paid out of the contingent fund and be allowed the stationery and postage needed by them respectively, and expenses incurred in transmitting and receiving telephone and express charges as may be actually necessary in the discharge of their official duties, said expenses to be paid out of the contingent fund.

It is further recommended that not to exceed 700 journals be printed, all of which shall be prorated among the Senators and Lieutenant Governor, except that 175 journals shall be furnished the members of the House.

It is further recommended that the Legislative Reference Library be furnished 60 copies of the daily journal.

It is further recommended that all salaries and expenses herein authorized to be incurred and paid for shall be paid out of the per diem and contingent expense fund of the 72nd Legislature as follows: The Senate shall request the State Comptroller of Public Accounts to issue general revenue warrants for the payment of the employees of the Lieutenant Governor's office, the Lieutenant Governor, Members of the Senate, employees of the Senate committees, and employees of the Senate, except as provided in Section 301.030, Government Code, upon presentation of the payroll account signed by the Chairman of the Administration Committee and the Secretary of the Senate; and for the payment of materials, supplies, and expenses of the Senate, including travel expenses for Members and employees, upon vouchers signed by the Chairman of the Senate Committee on Administration and the Secretary of the Senate.

It is further recommended that no employee of the Senate shall, during the time employed by the Senate, furnish to any person, firm, or corporation any

information other than general information furnished the public pertaining to the Senate, and the employee shall not without permission receive any compensation from any person, firm, or corporation during employment by the Senate, and any employee found guilty of violating this provision shall be immediately discharged.

All employees, except those responsible directly to the Lieutenant Governor, Members of the Senate, Secretary of the Senate, committee, or the head of a department, shall report for duty at 8 a.m. and 1:00 p.m. each day to the Sergeant-at-Arms of the Senate, except part-time employees, who shall report at the place and time directed by the Sergeant-at-Arms, and none of such employees shall be paid for the days they are absent from the Senate, unless excused by the Sergeant-at-Arms.

It is further recommended that the chairman of each standing committee shall have authority to employ such additional employees of his own selection as may be needed by said committee, said employees to receive the same compensation paid similar positions as herein fixed, and to discharge the duties of said standing committee, subject to the approval of the Administration Committee.

It is further recommended that no employee of the Senate, except one whose official duties require the employee to work upon the floor of the Senate, shall have access to the floor unless that employee shall have been requested by a Senator, the Lieutenant Governor, or the Secretary of the Senate to come on the floor for some official duty, after the performance of which the employee shall immediately leave the floor of the Senate. The Sergeant-at-Arms is specifically ordered to see that this provision is carried out.

Only those who have privileges of the floor during the session of the Senate shall be permitted on the Senate floor for a period of 30 minutes prior to the time the Senate convenes and 30 minutes after the Senate adjourns. The Sergeant-at-Arms is instructed to enforce this rule and to permit only those having the privileges of the floor to enter or remain on the Senate floor during such 30-minute periods.

Respectfully submitted,

BROOKS

Chairman of the Caucus

O. H. HARRIS

Secretary of the Caucus

The resolution was read and was adopted by a viva voce vote.

ELECTION OF PRESIDENT PRO TEMPORE FOURTH CALLED SESSION, SEVENTY-SECOND LEGISLATURE

The President announced that the next order of business was the election of the President Pro Tempore, 4th Called Session, Seventy-second Legislature.

Senator Brooks placed in nomination the name of Senator John T. Montford of Lubbock as President Pro Tempore of the Senate, 4th Called Session, Seventy-second Legislature.

Senators Truan, Turner, Leedom, Johnson, Harris of Dallas, Sims, Bivins, Whitmire, Henderson, Ratliff, Ellis, Moncrief, Lucio, Zaffirini, Dickson, Green, Brown, Barrientos, Lyon and Tejeda seconded the nomination.

The President declared that The Honorable John T. Montford had been duly elected President Pro Tempore of the 4th Called Session, Seventy-second Legislature, by a voice vote and appointed Senators Brooks and Harris of Dallas to escort Senator Montford and his wife to the President's Rostrum.

The President administered the Oath of Office to Senator Montford as President Pro Tempore of the 4th Called Session, Seventy-second Legislature.

Senator Montford addressed the Senate briefly, expressing his appreciation to the Members of the Senate and thanking them for their support. He then introduced his wife Debbie.

The President lauded Senator Montford as one who represents what is good and great about the Senate and what is good and great about Texas. He then congratulated Senator Montford and his wife Debbie.

MESSAGE FROM THE HOUSE

House Chamber
November 10, 1992

The Honorable Bob Bullock
President of the Senate

Sir: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 2, Inviting the Governor to address a Joint Session of the Legislature on November 10, 1992.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILLS AND RESOLUTIONS ON FIRST READING

The following bills and resolutions were introduced, read first time and referred to the Committee indicated:

S.J.R. 1 by Parker Education
Proposing a constitutional amendment providing an equity standard for public school finance, authorizing the redistribution of certain ad valorem taxes levied and collected by certain school districts, authorizing certain tax rate limitations in certain school districts, providing certain state funds to the support of public education, and authorizing state general obligation bonds to assist school districts in financing facilities.

S.J.R. 2 by Sims Education
Proposing a constitutional amendment providing for a system of public free schools.

S.B. 1 by Parker Education
Relating to public school education.

S.B. 2 by Haley Administration
Relating to the creation, purpose, implementation, and organization of the County Park Compost Program.

S.B. 3 by Carriker Natural Resources
Subcommittee on Agriculture
Relating to providing for methods and procedures for the eradication of boll weevils in cotton; providing penalties.

HOUSE CONCURRENT RESOLUTION 2

Senator Brooks offered the following resolution:

H.C.R. 2, Inviting the Governor to address a Joint Session of the Legislature at 1:30 p.m. Tuesday, November 10, 1992.

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

ESCORT COMMITTEE APPOINTED

In accordance with the provisions of H.C.R. 2, the President announced the appointment of the following as a Committee to Escort the Governor to the Joint Session: Senators Tejeda, Green, Johnson, Lyon and Truan.

CAPITOL PHYSICIAN

Senator Turner was recognized and presented Dr. Stephen Benold of Georgetown as the "Doctor for the Day."

The Senate welcomed Dr. Benold and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

SENATE RULE 11.11 SUSPENDED

On motion of Senator Haley and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Education might consider the following bill and resolution tomorrow:

S.B. 1

S.J.R. 1

SENATE RULE 11.11 SUSPENDED

On motion of Senator Sims and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on Education might consider S.J.R. 2 tomorrow.

MOTION TO ADJOURN

On motion of Senator Brooks and by unanimous consent, the Senate agreed to stand adjourned until 12:00 noon tomorrow upon the conclusion of the Joint Session to hear the address by The Honorable Ann W. Richards, Governor of Texas.

JOINT SESSION

(To hear address by The Honorable Ann W. Richards, Governor of the State of Texas)

The President announced the time had arrived for the Joint Session as provided for by H.C.R. 2.

The President of the Senate and the Senators present, escorted by the Secretary of the Senate and the Sergeant-at-Arms, proceeded to the Hall of the House of Representatives to hear the address of the Governor of Texas.

The President was announced and, on invitation of the Speaker, occupied a seat on the Speaker's Rostrum.

The Senators were announced and were admitted and escorted to seats prepared for them along the aisle.

The Honorable Ann W. Richards, Governor of Texas, accompanied by her party, was announced by the Doorkeeper of the House.

Governor Richards and her party were escorted to the Speaker's Rostrum by Senators Tejeda, Green, Johnson, Lyon and Truan on the part of the Senate, and Representatives Glossbrenner, Blair, A. Hill, Martinez and Watkins on the part of the House.

The President called the Senate to order and announced a quorum of the Senate present.

The President then notified the Governor and the House of Representatives that the Senate was organized and ready to transact business.

The Honorable Gib Lewis, Speaker of the House of Representatives, called the House to order, announced a quorum of the House present and notified the Governor and the Senate that the House was organized and ready to transact business.

Speaker Lewis then introduced Her Excellency Ann W. Richards, who addressed the Joint Session as follows:

**REMARKS OF GOVERNOR ANN W. RICHARDS
TO THE FOURTH CALLED SESSION
OF THE SEVENTY-SECOND TEXAS LEGISLATURE
NOVEMBER 10, 1992**

(Note to the reader: Governor Richards frequently deviates from prepared remarks.)

I am delighted to welcome you back to Austin for what we all hope will be a brief and productive visit.

This legislature has been called into special session to consider the matter of school finance.

There has been speculation about my intention to submit interim appointments to the Senate.

The law requires that they be submitted if the session lasts more than ten days, and I will comply with the law.

But financing the public schools is our priority and our reason for being here. I want to begin today by reading a statement about school finance in another state:

"When I was a boy on the Mississippi River there was a proposition in a township to discontinue public schools because they were too expensive. An old farmer spoke up and said if they stopped the schools they would not save anything, because every time a school was closed a jail had to be built."

That story was told at the Public Education Association meeting of 1900 by a speaker named Sam Clemens—better known to you as Mark Twain.

He was sixty-five years old at the time.

So you can figure that the meeting he was talking about dates back about a hundred and fifty years and teaches us that, as far as school finance is concerned, there is not much new to say.

Public schools are expensive, but closing them is even more expensive.

And we meet today under the very real threat of closing our public schools.

The district court—which consistently has the support of the higher courts—has told us plain and simple that we have until June first of 1993 to come up with a satisfactorily equitable system of school funding.

When asked what would happen if the court is not satisfied, the judge replied, "Why not just shut down the schools?"

You can't get much more direct than that.

And there is no particular mystery about how we can satisfy the courts.

We have four options.

One, we could create a totally new tax.

The Lieutenant Governor will tell you that that idea was tried and found wanting in the court of public and legislative opinion.

Two, we could consolidate school districts.

Speaker Lewis had the courage to advance that proposal which, as he is the first to admit, was not greeted with enthusiasm.

Three, we could find a new way to collect existing taxes.

I offered that plan, but we could not find the necessary support.

Or number four, we can recapture revenue.

Now there has been another option suggested: changing the constitution so that the legislature can determine at any point what it deems equitable.

Frankly, however you feel about that option, I don't think it has a chance of approval by the voters.

So, while recapture is the only politically feasible alternative we have—and we all need to admit it—the courts have consistently ruled that it is in conflict with the constitution.

The constitutional amendment that we are proposing remedies that conflict.

The amendment creates a constitutional standard of ninety-five percent equity that is clear and precise—not a moveable target.

It abolishes the County Education Districts.

It helps all school districts by converting 750 million dollars in state bonds for the construction of new school facilities.

It injects more accountability into the public schools by setting aside a fund to reward school districts that do well and assisting those who do not.

And it allows recapture.

Once the amendment has passed this legislature, we can move on to the enabling legislation.

But I want to be sure you understand one important point—and the Speaker, the Lieutenant Governor and I are in firm agreement on this: passage of the amendment is the paramount concern.

We must move it on to the voters, so that they have time to have their say without getting us into another game of “Beat the Clock” with the courts.

We are brought to this point by the courts and this is the only way we know to get the courts out of our school system.

Once the amendment is passed, any number of versions of enabling legislation can be offered.

The biggest problem in developing a new school financing plan is that everyone wants to compare dollar amounts to **S.B. 351**.

But **S.B. 351** has been declared unconstitutional by the courts and it ceases to exist on June the first of next year.

We have to face reality and so do the local districts.

We will not know how much money we have to spend on the schools or other essential programs until we receive the Comptroller's estimate at the beginning of the regular session in January.

There is literally no way of knowing for a certainty how much each district will receive under any plan.

And, the assumption that local districts must raise taxes based on a series of “what ifs,” and I would remind you that this legislature, this governor, the school boards and the superintendents all serve the same taxpayers.

We have a common tax base and we have a common responsibility.

Education is no longer purely a local matter.

As the Lieutenant Governor reminded us, “a child reared and educated in the Rio Grande Valley is as likely to live and work in Dallas as he is to stay home, and one day you are just as likely to see a high school drop-out from Lubbock make his way to Beaumont to commit a crime.”

And I must add that we are kidding ourselves if we think the IBMs and Apples and Southwestern Bells of the world are going to continue to locate in Texas if we allow the courts to close our schools and let this crisis continue to drag on.

The taxpayers that we serve want the jobs that new businesses will bring and school districts must have a growing tax base.

They all care about education in this state.

They want schools they can be proud of, but they also want us to understand that government isn't the only one with budget problems.

They are telling us that, in this economy, they are paying all the taxes they can stand.

And it is time for us—all of us—to listen.

With or without the Fair Share Plan, the school boards and superintendents will be facing hard decisions, but they are no more difficult than the ones we will be facing in January.

We may be facing the prospect of not funding the growing case load in basic health and human services programs.

We may face the possibility of eliminating whole programs or entire agencies.

I would seriously urge school administrators to examine every way possible to reduce spending, because that is what we are going to have to do.

Over the last ten years, we have doubled state spending on the public schools while enrollment has grown eighteen percent.

As my friend Bob Bullock says, I don't know anyone who was elected pledging to pass a tax bill.

If you don't want a tax bill, passage of this amendment is the first step.

And passage of the enabling legislation is step two.

I began these remarks today by quoting Mark Twain from ninety-two years ago.

Twain spoke at the beginning of a new century.

And we find ourselves very near the same awesome benchmark.

We have spent the last quarter of this century arguing about a mathematical representation of equity and quality in education.

We have the opportunity in this session to lay the framework to end that argument and move on to what truly matters to our children and our future.

The decisions that we make here can be remembered as just another failed effort in a long-running argument, or this session, the members on the floor today, can be remembered as the ones who laid the cornerstone for Texas schools in the twenty-first century.

The Speaker, the Lieutenant Governor and I have done all we can do.

Now it is up to you.

Let's be done with this issue and be on our way.

God be with you as you undertake your deliberations.

This concludes the Joint Session.

MEMORIAL RESOLUTION

S.C.R. 1 - By Sims: In memory of The Honorable Dorsey B. Hardeman, former State Senator and State Representative from San Angelo.

ADJOURNMENT

The President announced the purpose of the Joint Session had been accomplished and declared at 1:53 p.m. that the Senate would stand adjourned until 12:00 noon tomorrow, in accordance with a previously adopted motion by the Senate.